

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
HUNTINGTON DIVISION

A.E. and E.W.,

Plaintiffs,

v.

Case No. 3:17-cv-01885  
Robert C. Chambers, Judge

JOSHUA NIELD;  
CITY OF HUNTINGTON, WEST VIRGINIA;  
And JOHN DOES 1-7, INDIVIDUALS,

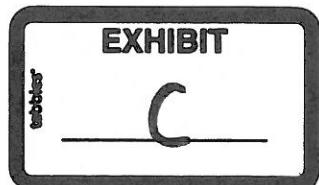
Defendants.

AFFIDAVIT OF NATHANIAL A. KURATOMI

STATE OF WEST VIRGINIA,  
COUNTY OF CABELL, TO WIT:

I, Nathaniel A. Kuratomi, under oath, testify to the truth of the following:

1. I am over the age of 18 years and competent to testify to the matters contained within this Affidavit based upon my personal knowledge and belief.
2. I am an attorney licensed to practice law in the State of West Virginia since 2006 (W.Va. State Bar No. 10328) and am a member of the law firm of Jenkins Fenstermaker, PLLC.
3. I and my firm represent the City of Huntington in the above-referenced Civil Action pending in the United States District Court for the Southern District of West Virginia, Huntington Division, Case No. 3:17-cv-1885.
4. The City of Huntington has incurred Five Thousand Six Hundred Sixty-Three Dollars and 00/100 (\$5,663.00) in attorney's fees related to the following tasks prompted by plaintiffs' counsel purported service of a Subpoena dated November 16, 2018 as discussed in greater detail in the Memorandum to which this Affidavit is attached:



- a. Receiving and reviewing Plaintiffs' Subpoena *duces tecum* sent, via electronic communication, on November 16, 2018;
- b. Communicating with counsel for Plaintiffs regarding the Subpoena *duces tecum* in writing and by telephone;
- c. Conducting research and analysis of the Federal Rules of Civil Procedure and federal case law regarding improper service of a Rule 45 subpoena *duces tecum*;
- d. Conducting research and analysis of the Federal Rules of Civil Procedure and federal case law distinguishing between Rule 34 Request for Production of Documents, and Rule 45 subpoena *duces tecum*;
- e. Conducting research and analysis of the Federal Rules of Civil Procedure and federal case law holding a Rule 45 subpoena *duces tecum* to be overly broad and unduly burdensome.
- f. Conducting research and analysis of the Federal Rules of Civil Procedure and federal case law as to Defendant the City of Huntington's duty to respond to an improper Rule 45 subpoena *duces tecum*.
- g. Drafting its Motion to Quash and/or Modify Subpoena, including review and revision of the same.
- h. Receiving and reviewing the Court's November 27, 2018 Order, ECF No. 138, granting Motion to Quash and/or Modify Subpoena;
- i. Conducting research and analysis of the Federal Rules of Civil Procedure and federal case law in preparation to draft Defendant the City of Huntington's Motion for Sanctions.

j. Drafting the City of Huntington's Motion for Sanctions and Memorandum in Support, including review and revision of the same.

5. These fees include Three Thousand Two Hundred Fourty-Four Dollars and 50/100 (\$3,244.50) for actions taken in responding to the November 16, 2018 Subpoena and Two Thousand Four Hundred Eighteen Dollars and 50/100 (\$2,418.50) for actions taken in preparing the Motion for Sanctions referenced in the Court's November 28, 2018 Order, ECF No. 138.

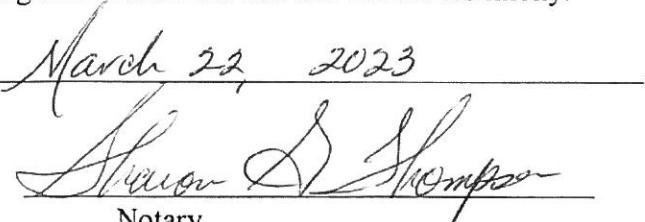
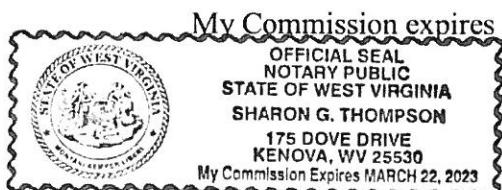
FURTHER THE AFFIANT SAITH NOT.



Nathaniel A. Kuratomi

#### NOTARY STATEMENT

I, a Notary Public for the State of West Virginia, hereby verify that the Affiant, Nathaniel A. Kuratomi, did appear before me this 10<sup>th</sup> day of December, 2018, and under oath affirmed the foregoing Affidavit as her true and correct testimony.



March 22, 2023  
Sharon G. Thompson  
Notary

[stamp or seal]